

[12th August 1954]

(b) The Commissioner, Hindu Religious and Charitable Endowments (Administration) Department has issued adequate instructions to the Deputy Commissioners and Assistant Commissioners to obtain and sanction budgets from the religious institutions in time. The progress made in the matter is reported by them to the Commissioner, in their monthly and quarterly business returns which are reviewed by the Commissioner. Instructions have also been issued to the Deputy Commissioners and Assistant Commissioners to take disciplinary action against defaulting trustees wherever necessary.

III.—MESSAGES FROM THE ASSEMBLY.

MR. CHAIRMAN :—“ I have to announce to the House that I have received the following messages, dated the 7th and 11th August 1954, from the Hon. the Speaker, Madras Legislative Assembly :—

‘ (1) In accordance with rule 99 of the Madras Assembly Rules, I transmit a copy of the Madras Hindu Religious and Charitable Endowments (Amendment) Bill, 1954 (L.A. Bill No. 27 of 1954), as passed by the Assembly on the 7th August 1954 and signed by me, for the concurrence of the Council.

(2) In accordance with rule 99 of the Madras Assembly Rules, I transmit a copy of the Bhavanisagar Township Bill, 1954 (L.A. Bill No. 28 of 1954), as passed by the Assembly on the 7th August 1954 and signed by me, for the concurrence of the Council.

(3) In accordance with rule 99 of the Madras Assembly Rules, I transmit a copy of the Madras Public Libraries (Amendment) Bill, 1954 (L.A. Bill No. 29 of 1954), as passed by the Assembly on the 7th August 1954 and signed by me, for the concurrence of the Council.

(4) In accordance with rule 99 of the Madras Assembly Rules, I transmit a copy of the Madras District Boards (Second Amendment) Bill, 1954 (L.A. Bill No. 31 of 1954), as passed by the Assembly on the 11th August 1954 and signed by me, for the concurrence of the Council.’ ”

IV.—GOVERNMENT BILLS.

(1) THE MADRAS INSTALLATION OF OIL ENGINES (TEMPORARY PERMISSION) BILL, 1954.

* THE HON. SRI A. B. SHETTY :—“ Mr. Chairman, Sir, I beg leave to introduce the Madras Installation of Oil Engines (Temporary Permission) Bill, 1954* (L.C. Bill No. 9 of 1954) and move—

‘ That the Bill be taken into consideration at once.’

“ Sir, the Statement of Objects and Reasons explains the need for this Bill. The Bill makes statutory provision for granting temporary permission for the installation in any premises, whether

12th August 1954] [Sri A. B. Shetty]

in a residential area or not, of machinery or other manufacturing plant driven by steam or other power and it also validates the temporary permissions already granted in pursuance of the order issued by the Government. This Bill is a very simple piece of legislation and I hope hon. Members will pass this legislation."

MR. CHAIRMAN :—" Motion moved—

' That the Madras Installation of Oil Engines (Temporary Permission) Bill, 1954 (L.C. Bill No. 9 of 1954), be taken into consideration at once.' "

* DR. V. K. JOHN :—" Mr. Chairman, Sir, this Bill looks very innocent but it is not as innocent as it looks. First of all, the assumption is that the Government have passed some orders which were not warranted by law. Some orders were passed by Government in 1953. Now this Bill is introduced by the Government to validate illegal orders or orders which were issued illegally by them. The Hon. Minister who moved the Bill has not told us why the Government issued these illegal orders and why it has become necessary to validate those orders. My real complaint is that this Bill is unnecessary. If the Hon. Minister examines the provisions of the City Municipal Act, 1919, the District Municipalities Act, 1920, and the Local Boards Act, 1920—Sections 287 and 288 and Schedule VI of the City Municipal Act, sections 249 and 250 and Schedule V of the District Municipalities Act and sections 193 and 194 and Schedule VI of the Local Boards Act—he will find the required powers for issuing licenses already provided for. But, Sir, I would like to suggest to the Hon. Minister and those who advise the Government to make it a point to study the Constitution of India. No permission is required for installing a machine to generate power because under Article 19 (g) of the Constitution every citizen is entitled to practise any profession or to carry on any occupation, trade or business. No doubt, the Government or local body can impose reasonable restrictions in the public interest. The permission of the local body is not necessary to carry on any business, occupation or trade. It is for the local body to impose certain restrictions which are necessary in the interests of the public and such restrictions ought to be reasonable. This Bill seeks to provide for the grant of temporary permissions to persons wanting to carry on a trade. But it is absolutely silent on the question as to what reasonable restrictions should be placed to install the machinery to generate power. What we must provide for is to impose reasonable restrictions in the interests of the public for installing the machinery for generating power, but not to grant permission to install the machinery for generating power which is given under Article 19 of the Constitution of India. I request the Hon. Minister to refer these matters to somebody who knows the law on the subject so that the time of the House may not be taken up unnecessarily and we would have to face the discredit that we are passing laws in utter ignorance of the existing laws and particularly the Constitution of India. The District Municipalities

11-50
a.m.

[Dr. V. K. John] [12th August 1954]

Act, 1920, the Local Boards Act, 1920 and the City Municipal Act, 1919, provide for power in the executive to grant licences and that permission will be valid for one year only. It is in sheer ignorance of law that this Bill has been introduced and it is also sheer waste of time. What the Government should have done is to introduce a Bill imposing reasonable restrictions on the rights granted by Article 19 of the Constitution to carry on any occupation, trade or business. There is no provision in this Bill which imposes reasonable restrictions on the right guaranteed by the Constitution of India."

* SRI K. BHASHYAM :—" Mr. Chairman, Sir, in a simple and innocent Bill like this, the Hon. the Deputy Leader of the Opposition has found so much material for a big lecture on constitutional law. It is not at all necessary in the present case. I take what he says to be correct, namely, that the sections he quoted from the Local Boards Act and the District Municipalities Act apply to the present case. The restrictions for the purpose of issuing licences are already there. Those restrictions are being removed in respect of certain matters. This Bill seeks to validate the temporary permissions already granted by the local authorities in pursuance of the orders issued by the Government and therefore this legislation is necessary. I do not agree with the Deputy Leader of the Opposition that this measure is unnecessary. I also do not agree with him as regards the constitutional aspects pointed out by him. But I do agree that it is necessary for the Government to consult the Legal Department in all cases and take their advice. Perhaps, in very many cases it is being done. Even Article 19 (g) of the Constitution referred to by the hon. Member, Dr. V. K. John, is subject to restrictions. Those restrictions are really placed on the Statute Book. The restrictions can be made effective only by saying that a licence is necessary for the purpose. How are we to express the restrictions? We may express the restrictions in some form in some statute and this statute mentions this, namely, that one must take the licence with all the restrictions noted on the back of the licence. Therefore, there is no question of constitutional impropriety or want of authority so far as the various sections of the Bill are concerned. While I endorse the appeal made by the hon. the Deputy Leader of the Opposition that the Government should consult their Legal Department in respect of any legislation that comes up before this House, I do feel that in the present case there is no such necessity, as this is a simple matter.

" However, I would like to stress only one point on my own behalf. It is to meet a sort of temporary emergency that these permissions have been given to issue the licences in question. We have thermal stations in residential quarters. They are most injurious to health. In fact, there have been cases in Courts where heavy damages have been awarded for installing such machinery. Even in Madras City it has been done. Therefore, the installation

12th August 1954] [Sri K. Bhashyam]

of thermal stations in residential quarters is dangerous to the public health. If it was done in the interests of a particular person who owns the mill, it has been done to the detriment of the health of the general public. It ought not to have been done. The Government must provide for certain restrictions. They must restrict the hours of work, etc. Of course, all that might have been done. Still, I venture to question the wisdom of allowing these to be installed in residential areas. Even if there is drought or want of enough electrical energy for running the mills, this method of getting over the difficulty by giving permission to install machinery in residential areas is most reprehensible. This is my view. I request the Government to think over the matter and see whether they can do anything."

* SRI G. KRISHNAMOORTHY:—"Mr. Chairman, Sir, the object of this Bill, as I can gather, is to legalize the permission already given by the local boards for the installation of various oil engines in residential localities. I do not know whether the Government are ultimately aiming at granting permission permanently by just authorizing through this Bill the grant of temporary permission each year. There is no time-limit for the temporary permission excepting for the fact that the permission should last for a year. But there is no restriction imposed on the municipalities or local boards that the permission should be continued for a certain number of years or should be withheld after a certain number of years. It is something like a permanent permission for the installation of oil engines in residential areas. I do not know whether the Government would not be well advised in just inserting a clause insisting on the oil engines to use electric power before the grant of the next year's licence. Now that we have had copious rains recently, we can insist upon the replacement of these oil engines, which are noisy, by electric motors and we can amend this Bill in such a way that some sort of enquiry is made or some convincing explanation is obtained from the person who requires the licence to the effect that he had no facility to substitute electric power for oil power before the renewal of the licence.

"I welcome the introduction of cottage industries even in residential localities using electric power. But I would request the Hon. Minister to enlighten me as to the number of mills that are run with oil engines in these areas that has necessitated the bringing in of this measure. I also want to know, whether the oil engines cannot be converted into electric power engines and whether the Government have any idea of allowing the industrialists to install electric power engines of one to five horse power and manufacture goods on the Japanese model.

"Sir, some months ago I requested the Hon. Minister to make a statement on the policy the Government proposed to adopt in this matter. Now, I again request him to make a statement on the policy the Government are going to adopt to encourage cottage industries. In this connexion, I would like to point out to the

12
P.m.

[Sri G. Krishnamoorthi] [12th August 1954]

Government that it is high time they introduced in this country similar industries as are flourishing in Japan, such as making of clips, pins and coir products by men and women in the household at very little cost and at their leisure and make them available to the people at cheap rates. I only want the Government to make a statement as to what their policy is in respect of this matter and how best they can make use of this Bill authorizing the installation of mills and factories in residential areas for this purpose."

SRI V. CHAKKARAI CHETTY :—" Sir, I am unable to understand the rationale behind this Bill. There are certain provisions for example in the City Municipal Act, 1919, by which it is possible for an enterprising mill owner to do a thing that has been attempted to be made valid under the Bill. Of course there is the opinion of the Commissioner and he may refuse it. In that case there is an appeal to the Standing Committee. By this validation do the Government want to over-rule the powers of the Standing Committee and vest the power in the Commissioner? Are the Government to be entitled to give a blank cheque to the Commissioner to grant permission for the installation of mills wherever he thinks it necessary in spite of the fact that it may cause inconvenience to the residents of that locality? "

* THE HON. SRI A. B. SHETTY :—" Mr. Chairman, Sir, the Statement of Objects and Reasons explains and shows how there is no provision in the Madras City Municipal Act, 1919, or the Madras District Municipalities Act, 1920, or the District Boards Act, 1920, or the Madras Village Panchayats Act, 1950, for granting temporary permission for the installation of such oil engines. A difficult situation arose last year on account of the drought conditions and many mills and factories located in residential areas could not carry on their business. On account of such a situation arising, the Government considered the matter and gave permission to local bodies to allow the installation of oil engines in factories and mills located even in residential areas. This Bill has been considered very fully in the different departments of the Secretariat. The Legal Department also has given its full consideration to this Bill and, so far as I can see, the Bill is all right. I therefore think that this Bill serves the purpose for which it is intended. There is no need to go into all the issues referred to by hon. Members sitting opposite."

MR. CHAIRMAN :—" The question is—

' That the Madras Installation of Oil Engines (Temporary Permission) Bill, 1954 (L.C. Bill No. 9 of 1954), be taken into consideration at once.' "

The motion was carried.

The consideration of the Bill, clause by clause, was then taken up.

12th August 1954]

Clause 2.

MR. CHAIRMAN :—“ The motion is—

‘ That Clause 2 do stand part of the Bill.’ ”

SRI M. ETHIRAJULU :—“ Mr. Chairman, Sir, I move—

‘ Add the following at the end of sub-clause (1) :—

“ provided the health and the peace of the locality are not in any way affected.” ’ ”

SRI A. GAJAPATHY NAYAGAR :—“ I second the amendment, Sir.”

MR. CHAIRMAN :—“ Amendment moved—

‘ Add the following at the end of sub-clause (1) :—

“ provided the health and the peace of the locality are not in any way affected.” ’ ”

SRI M. ETHIRAJULU :—“ கனம் தலைவர் அவர்களே, இம்மசோதாவை நான் ஆதரிக்கின்றேன். இம்மசோதாவின் இரண்டாவது ஷரத்து ஒன்றாவது பிரிவின் கடைசியில் நான் கொடுத்திருக்கும் திருத்தத்தை சர்க்கார் ஏற்றுக்கொள்ளவேண்டியது எவ்வளவு அவசியம் என்பதைப் பற்றி ஒரு சில வார்த்தைகள் சொல்ல விரும்புகிறேன்.

“ இன்றையதினம், எண்ணையால் இயங்கும் என்ஜின்களை மக்கள் வசிக் கும் பிரதேசத்தில் ஓடவிடுவதால் எத்தனை தீமைகள் உண்டாகிக்கொண் டிருக்கின்றன என்பது நம் எல்லோருக்கும் தெரியும். நகரசபைகளும், ஜில்லா போர்டு, பஞ்சாயத்து போர்டு ஆசயவைகளும் பொதுமக்களின் பொது சுகாதாரத்தைப் பாதிக்கும் என்று ஆலோசித்து இவ்விஷயத்தில் கவனம் செலுத்துவதாகவே தெரியவில்லை. அத்துடன், அவைகளின் சுகா தார அதிகாரிகளும் இவ்விஷயத்தில் சிரத்தை காட்டுவதில்லை. இப்பொழுது ஒரு வருஷத்திற்குத்தான் இந்த என்ஜின்களை ஓடவிட லைசென்ஸ் வழங்கப் படுமென்று சொல்லப்படுகிறது. பொதுவாக மிகளாய், சீயக்காய் போன்ற வைகளை அறைக்கும் ஒரு மிஷின் மக்கள் வசிக்கும் பிரதேசத்தின் மத்தியில் இருந்துவிட்டால் அந்தப் பிராந்தியத்தில் வசிப்பவர்களின் நாசி எறிச்சல் எடுத்துப் போவதோடு அவர்கள் சுவாசப்பையும் கெடும். அதோடு அந்த மிஷின் அறைக்கும்போது உண்டாகும் சப்தமானது அதைச் சுற்றிலுமுள்ள வீடுகளில் வசிப்பவர்கள் இறைந்து இருவர் பேசினாலும்கூட ஒருவர் பேசுவது மற்றொருவர் காதில் விழாது.

“ ஒடுகின்ற காலத்தில் அவ்வளவு மோசமான சப்தத்தை அவைகள் எழுப்பி மக்கள் குடியிருக்கும் இடங்களில் நிலவவேண்டிய நிசப்தத்தைப் பாழ்படுத்திகின்றன. ஆகையால் இம்மாதிரியான என்ஜின்களை பொது மக்கள் குடியிருக்கும் பிரதேசங்களில் நிறுவ அனுமதி அளிப்பதால் மக்க ளுடைய பொது சுகாதாரம் வெகுவாகப் பாதிப்பதோடு மட்டுமல்லாமல் மக்க ளின் சுகவாழ்வும் பெரிதும் பாதிக்கப்படுகின்றது. இந்த இயந்திரங்களைக் கழுவும் காலத்தில் கழிவு நீர்கள் எல்லாம் மக்கள் குடியிருக்கும் தெருவி லேயே சென்று மிகவும் மோசமான தர்நாற்றத்தை உண்டுபண்ணுகிறது. இதுவும் பொது சுகாதாரத்திற்குக் கெடுதி விளைவிப்பதாகும். ஆகவே தான் நான் இந்தத் திருத்தத்தைக் கொண்டுவந்திருக்கிறேன். இது ரொம்பவும் அவசியமானது. இல்லர்விட்டால், முனிஸிபல் சட்டம் எப்படியிருந்தாலும் கூட, நகரசபை மெம்பர்கள், முனிஸிபல் மெம்பர்கள் இவர்களின் உதவியைக்கொண்டு பணம் படைத்தவர்களும், செல்வாக்குள்ளவர்களும் மக்கள் வசிக்கின்ற பிரதேசங்களிலேயே இந்த மிஷின்களை நிறுவ அனுமதி சுலபத் தில்பெற வசதி ஏற்பட்டுவிடவும் கூடும். ஆகவே இந்தச் சட்டத்தில் மிஷின்களை நிறுவ அனுமதி அளிக்கும்போதே மக்கள் வாழும் பிரதேசத்

[Sri M. Ethirajulu]

[12th August 1954]

தில் இந்த இயந்திரம் நிறுவப்படுவதென்றால் அந்தப் பிராந்தியத்திலுள்ள மக்களின் சுகாதார வாழ்வுக்கும், அமைதிக்கும் குந்தகம் ஏற்படாத முறையில் லைசென்ஸ் கொடுக்கலாம் என்று விதிக்கும் என் திருத்தத்தைச் சர்க்கார் ஒப்புக்கொள்ள வேண்டுமென்று கேட்டுக் கொண்டு நான் என் பேச்சை முடித்துக் கொள்ளுகிறேன்.”

* SRI A. GAJAPATHY NAYAGAR :—“ கனம் மன்றத் தலைவர் அவர்களே, மக்கள் வாழ்கின்ற பிரதேசத்தில் மிளகாய், சீயக்காய் இன்னும் இப்போன்று நெடியை உண்டுபண்ணக்கூடிய பொருள்களை அறைக்கும் இயந்திரங்களை நிறுவ அனுமதி அளிப்பதால் மக்களின் பொது சுகாதாரம் எவ்வளவு பாதிக்கப்படும் என்று நான் சொல்ல வேண்டியதில்லை. அதோடு மக்கள் வாழும் இடங்களில் எந்த இயந்திரத்தை அமைத்தாலும் அதனால் ஏற்படுத்தப்படுகின்ற சப்தம் அவர்களது அமைதியைக் குலைக்கும் என்பதும் உண்மை. ஆகவே இந்த மசோதாவின் இரண்டாவது ஷரத்து, 1-வது பிரிவின் கடைசியில் அந்தப் பிரதேசத்தின் பொது சுகாதாரம், அமைதி இரண்டையும் குலைக்காத வகையில் இந்த மிஷின்களை நிறுவ லைசென்ஸ் கொடுக்கலாம் என்று கூறும், கனம் ஸ்ரீ எதிராஜ் அவர்களின் திருத்தத்தை முழு மனதுடன் ஆதரிக்கிறேன்.”

* SRI K. BALASUBRAMANYA AYYAR :—“ Mr. Chairman, Sir, I also support the amendment moved by the hon. Member. The chief object of empowering an officer to grant the licence or permission is to enable the officer to satisfy himself whether even the temporary installation of an oil engine especially in residential areas will not affect the peace or health of the residents of that locality. Therefore that must be one of the conditions for the grant of temporary licences in future. Regarding the other things in the Bill I shall refer to them later. So far as the amendment is concerned, I support it.”

12-10
P.m.

* DR. V. K. JOHN :—“ Mr. Chairman, Sir, I want to say one word on this amendment. I want to repeat what hon. Member Sri K. Bashyam has stated, that in Article 19 of the Constitution of India, provision is made to the effect that ‘ a citizen shall have the right to practice any profession or to carry on any occupation, trade or business.’ Clause (6) of this Article provides that—

‘ Nothing in sub-clause (g) (which I have just now read) of the said clause shall affect the operation of any existing law in so far as it imposes or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clauses’

Now, the fundamental thing which I want the Hon. Minister to know is that that right was not guaranteed by law before the Constitution came into effect. The Constitution to-day gives the right, the fundamental right, enforceable in a court of law, that a man can carry on any occupation, trade or business but the same Article 19 provides for ‘ reasonable restrictions in the interests of the general public ’ and nothing more can be imposed on a person who seeks to exercise that right. Therefore, what is required here is to define the ambit of those ‘ restrictions ’ which would be imposed on the persons seeking to exercise that right. The hon. the Mover of this amendment, in a way, suggests that we should not give permission in cases where the health and the peace of the locality are in any way affected. Now, in the Bill which has been

12th August 1954] [Dr. V. K. John]

introduced, nothing has been said about the restrictions and it has been only stated that permission is given temporarily for a period not exceeding one year. Therefore, this amendment which gives scope for restrictions, in a way, is good. The Bill should have provided for restrictions in the interests of the general public which it does not seek to do—which is wrong—and I, therefore, support the principle underlying this amendment."

* SRI T. M. DAIVASIKHAMANI ACHARIAR :—" Mr. Chairman, Sir, I feel constrained to support the amendment which has been brought forward by my hon. Friend, Sri M. Ethirajulu. The reason for that is, that those who live in the Madras City and who have experienced the difficulties which the tramways had caused, will readily understand that the location of these oil engines in a residential area is really irksome. Sir, apart from this, what is the necessity to install high power machines or engines which are not required nor suitable for the work in a residential locality where the people are bound to experience great difficulties on account of these oil engines? The great noise and shocks produced by these oil engines stop only in the midnight and till that time residential people in the locality cannot even talk family matters in their houses.

" The other point is that cottage industries do not require any high power machine or motor. The very object of the cottage industries is that they should be done by hand and not with the aid of any machine. So far as the cottage industries are concerned, I reiterate that no machines or high power oil engines are required. It is only for heavy works like turning or cabinet-making, there is necessity for lathes and saw-mills to be run by oil engines or high power electric machines. Sir, the nuisance caused by the flour mills in our street, is not much, as compared with the nuisance caused by the grinding of chillies and soapnuts in them which causes considerable nuisance and sneezing to the general public as a whole. Therefore, is it advisable, from the point of the health of the general public, to install these oil engines in the very heart of the City? I request that the Government should give more consideration to it and also view it from the point of unlimited nuisance that they cause to the residential people. They must even ask these machines to be taken away from the precincts of the City. Therefore, it is with great pleasure and with all the power at my command, I strongly support this amendment and stress that these machines and mills should once for all be removed from localities where people live in large numbers with their families."

* SRI T. PURUSHOTHAM :—" Mr. Chairman, Sir, the amendment proposed by my hon. Friend, Sri Ethirajulu, would appear to give the impression that considerations of public health will not weigh or be taken into account in granting these licences. As one who knows something about municipal and local board administration, I wish to assure hon. Members that though we are passing a Bill in which provision is made for the grant of temporary

[Sri T. Purushotham] [12th August 1954]

or permanent licences, all the provisions of the Public Health Act, 1939, the District Municipalities Act, 1920, and the Local Boards Act, 1920, are applicable to the grant of such licences and the applications for licences are scrutinized by the Public Health authorities. No licence will be issued either temporarily or permanently without consulting the Public Health authorities, viz., the District Health Officer or the Municipal Health Officer. Public health considerations will certainly be borne in mind by them and no installation of oil mills, etc., will be allowed in any residential area against the recommendations of the Public Health authorities. Therefore, there is no necessity for this amendment and I would request the hon. Member to withdraw it."

* DR. V. K. JOHN :—" On a point of information, Sir, I want to know whether all the provisions of the various Acts like the Public Health Act, the Municipal Act, mentioned by the hon. Member are attracted by this Bill. They are not attracted at all."

* SRI T. PURUSHOTHAM :—" So far as the rules governing the issue of licences for these installations go, the public health point of view will certainly be the chief concern of the Public Health authorities and the local authorities before granting these licences. Therefore, there is no need for a specific provision in the present Bill, as suggested by the hon. the Mover of the amendment. Once again, I request the hon. Member to withdraw his amendment."

12-20
p.m. * SRI K. BHASHYAM :—" Mr. Chairman, Sir, I would not have really interfered in the discussion but for the fact that my name has been dragged into it. I would only point out again, as I pointed out before, that it is hyper-critical to criticize the form in which the 'restrictions' are placed on the Statute Book. After all, it is a hang-over from the previous Act which was passed before the Constitution came into effect. Therefore, if we really want to amend the various Acts, we have got to take them as they are and make amendments to suit the Constitution. Therefore the logical form according to hon. Member, Dr. V. K. John, would be to say that a person has got the right to run a mill wherever he likes and that the municipality or the local body can place some restrictions on the running of the mill. Instead of this, if we say 'Please let us know before you install an engine as to what you propose to do, so that we can place some restrictions on you', I do not see anything wrong in it. It is clear that the difference is only in regard to the form and not in regard to the substance and there is nothing unconstitutional about it. As a matter of fact, municipalities want to be informed beforehand where the oil-engine is going to be installed so that they could send out their Inspectors for purposes of investigation and examination to see what restrictions as may be necessary can be imposed in respect of that installation. Therefore, in substance Article 19 (g) and the provision

12th August 1954] [Sri K. Bhashyam]

in clause (6) of Article 19 sanctioning the imposing of reasonable restrictions on the exercise of this right are satisfied. There is no difficulty or unconstitutionality about it.

“Then the only question that remains is whether public interest is affected or not. This is a question on which each case has to be considered on its merits. In the present case, when an oil-engine is sought to be installed in a residential area, great care must be taken as regards the restrictions to be imposed. A silencer or some other safeguard might be insisted upon to see that the people are not disturbed. The word ‘restriction’ also means that the installation itself might be prohibited altogether. Therefore, in respect of all these matters, the question of granting a licence prior to the installation is essential, at any rate, for the purpose of controlling the installation of these engines. The Bill, as it stands, is therefore quite correct and there can be no legal objection to it.

“As regards the proposed amendment, it requires that the health and the peace of the locality should not in any way be affected. This is what exactly the Government have in view and they would say that this could always be secured by the rules regarding the grant of these licences. ‘Why should such a provision be duplicated in the Bill?’ the Government would naturally ask. It is sometimes too dangerous to do so as it may be taken to mean that the other rules regarding the grant of licences cannot be applied. It is much better to leave the clause as it is without the amendment because we have got specific rules governing the grant of licences.”

***SRI K. N. PALANISWAMI GOUNDER:**—“கனம் தலைவர் அவர்களே, ஜில்லா போர்டுகளிலும், நகர சபைகளிலும், பஞ்சாயத்து போர்டுகளிலும் பொது சுகாதாரத்தைப் பாதுகாக்கும் அதிகாரிகள் சிலர் இருக்கிறார்கள். இவைகளுள், சிலவற்றில் சுகாதார அதிகாரிகள் பிரத்தியேகமாகவும் இருக்கிறார்கள். பொது சுகாதாரத்தைப் பாதிக்கும் வகையில் மக்கள் வசிக்கும் பிரதேசத்தில் மிஷின் ஓடாமல் தடுக்க இவர்களுக்கு அதிகாரம் இருக்கிறது. நகரத்தைப் பொதுவாக மூன்று பிரிவுகளாகப் பிரித்திருக்கிறார்கள். அதாவது ரெலிடென்ஷியல் லொக்காலிடி, இன்டஸ்ட்ரியல் லொக்காலிடி, கமர்ஷியல் லொக்காலிடி என்று பிரித்திருக்கிறார்கள். அந்தந்தப் பிரதேசத்திற்குத் தக்கபடி அவைகளின் பொது சுகாதாரத்தைப் பாதுகாக்கும் முறையில் அதிகாரிகள் நடவடிக்கை எடுத்துக் கொண்டு வருகிறார்கள். சட்டசபை மெம்பர்களைப் போலவேதான் பஞ்சாயத்துப் போர்டு மெம்பர்களும், ஜில்லா போர்டு மெம்பர்களும் இருக்கிறார்கள். நம்மைப் போலவேதான் அவர்களும் பொறுப்பு வாய்ந்தவர்கள். அவர்களைக் கேவலப்படுத்து முறையில் ஸ்ரீ எதிராஜ் அவர்கள் பேசியது குறித்து நான் ரொம்பவும் வருந்துகிறேன். அவர் அம்மாதிரி பேசக்கூடாது. ஸ்தல ஸ்தாபனங்களுக்கு அதிக அதிகாரத்தைக் கொடுக்கவேண்டியது ரொம்பவும் அவசியமாகும்.

“ஆகவே நான் இந்த மசோதாவையும், அதற்கு ஸ்ரீ எதிராஜ் கொடுத்திருக்கும் திருத்தத்தையும் ஆதரிக்கிறேன். இதையும் ஒப்புக்கொண்டு நகர சபைகளுக்கும், ஸ்தல ஸ்தாபனங்களுக்கும் இந்தச் சட்டத்தை அமுலாக்கும் அதிகாரத்தையும் கொடுக்க வேண்டுமென்று கேட்டுக்கொண்டு நான் முடித்துக் கொள்ளுகிறேன்.”

[12th August 1954]

* THE HON. SRI A. B. SHETTY :—“ Mr. Chairman, Sir, my hon. Friends, Sri T. Purushotham and Sri K. Bhashyam, have made helpful speeches and they have explained why this amendment is unnecessary. This amendment had been considered by the concerned department also. The object of this legislation is not to give general permission for the installation of oil-engines in residential areas. It was meant to meet a particular emergency on account of the cut of 66 and odd per cent in electric power supply. Therefore, there is no necessity for the hon. Members to entertain any doubts regarding the object of this legislation. Only temporary permission subject to such restrictions as are necessary to ensure public health and to prevent any disturbance of the peace of the locality will be given. The occasion for the grant of such permission may hardly arise hereafter in view of the very satisfactory electric power position in the State. I would therefore request the hon. Member to withdraw his amendment in view of the assurance given.”

SRI M. ETHIRAJULU :—“ Sir, I withdraw the amendment.”

MR. CHAIRMAN :—“ I hope the House gives permission to the hon. Member to withdraw the amendment.”

DR. V. K. JOHN :—“ No, Sir.”

MR. CHAIRMAN :—“ The question is—

‘ Add the following at the end of sub-clause (1) :—

“ provided the health and the peace of the locality are not in any way affected.” ’

The amendment was lost.

* SRI K. BALASUBRAMANYA AYYAR :—“ Mr. Chairman, Sir, I want to say a few words in regard to this clause. The Government themselves say that there was no provision in any of the existing Acts when such temporary permissions were given for the installation of these engines. Nothing appears to have been done subsequently. It is said that permissions were granted early in 1953 and now in August 1954 the Government want to validate them and say that they shall be deemed to be permission given under the various Acts. This sort of a thing has become a habit with the Government and I want to state on the floor of this House that this cannot be allowed to go on. In the Statement of Objects and Reasons itself it is said : ‘ At present there is no provision in the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, or the Madras Village Panchayats Act, 1950, for granting temporary permissions for the installation Why then did the Government give such permissions early in 1953? I take it that emergency required such a step but within a short time the Government ought to have brought in emergency legislation to meet the situation. Suppose, when granting such permissions temporarily, the public health and peace of the place or

12th August 1954] [Sri K. Balasubramanya Ayyar].

some other factors have not been considered. Then they would not be valid according to the various other provisions in these Acts which apply to the granting of such licences. What then are we to do now? The present legislation is not the proper thing. The better thing would be to amend the provisions in the various other Acts and bring them into effect instead of taking power for validating certain Acts long after they were done."

* DR. V. K. JOHN :—" Mr. Chairman, Sir, I want to make a suggestion to the Hon. Minister. Clause 2 of the Bill says ' . . . may grant permission to such person to install such an oil-engine.' What the sponsors of the Bill have in view is not only ' installing an engine ' but ' also working it.' For installing an engine permission is not required. Permission is required only to work the engine. The clause, therefore, requires to be amended. There is no use in bringing forward amendments in this House because they are not likely to be accepted. Merely granting permission to install an oil-engine and taking it away after a period of one year is not what is wanted. I therefore suggest to the Hon. Minister to bring in an amendment providing for working the engine and not merely for installing the engine as has been done now."

12-30
p.m.

* THE HON. SRI A. B. SHETTY :—" Local authorities were instructed to grant permission temporarily to run oil-engines for a period of one year from the date of grant of the permission. As temporary licences are not in keeping with the statutory provisions this validating legislation has been brought forward."

Clause 2 was put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI A. B. SHETTY :—" Sir, I move—

' That the Madras Installation of Oil Engines (Temporary Permission) Bill, 1954 (L.C. Bill No. 9 of 1954), be passed into law.' "

MR. CHAIRMAN :—" The motion is—

' That the Madras Installation of Oil Engines (Temporary Permission) Bill, 1954 (L.C. Bill No. 9 of 1954), be passed into law.' "

* DR. V. K. JOHN :—" Sir, I am sorry I have to intervene again during the third reading. I want to make this suggestion to the Government. Instead of bringing in a legislation like this, they must bring in a legislation amending the original Acts like the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, or the Madras Village Panchayats Act, 1950. In every case the Act concerned should be amended. There must be some method in legislating and the Government must not bring in a legislation like the one before the House saying that permission

[Dr. V. K. John]

[12th August 1954]

granted under sub-clause (1) of Clause 2 of the Bill shall be deemed to be permission granted by the Commissioner, Corporation of Madras, the municipal council, the district board or the panchayat, as the case may be, under the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, the Madras District Boards Act, 1920, etc. We are made to take responsibility for a Bill which is unnecessary and which is very bad in form."

MR. CHAIRMAN :—" The question is—

' That the Madras Installation of Oil Engines (Temporary Permission) Bill, 1954 (L.C. Bill No. 9 of 1954), be passed into law.' "

The motion was carried and the Bill was passed into law.

(2) THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS (AMENDMENT) BILL, 1954 (L.A. BILL NO. 27 OF 1954).

* THE HON. SRI B. PARAMESWARAN :—" Mr. Chairman Sir, I move—

' That the Madras Hindu Religious and Charitable Endowments (Amendment) Bill, 1954 (L.A. Bill No. 27 of 1954), as passed by the Assembly, be taken into consideration at once.'

" The Joint Select Committee which went into the Bill was appointed by resolutions of the Legislative Assembly, dated 18th and 19th May 1954, and a resolution of the Legislative Council, dated 18th May 1954. The Joint Select Committee after a careful scrutiny of the various clauses of the Bill did not consider it necessary to introduce any drastic changes therein. I shall briefly indicate the important changes in the Bill made by the Joint Select Committee and by way of certain amendments passed by the Legislative Assembly.

" *Clause 5 of the Bill.*—Sub-section (1) of section 30 of the Act declares the right of the trustee of a religious institution to incur expenditure out of the funds in his charge for securing the health, safety and convenience of disciples and pilgrims, for the training of archiakas, etc. Sub-section (2) of section 30, however, requires that in incurring the expenditure, the trustee shall be guided by the general or special instructions which the Commissioner or the Area Committee may give. The Supreme Court held that the provision in sub-section (2) constituted an unreasonable restriction on the right of the trustee. Clause 5 of the original Bill, however, thought that a total omission of the sub-section was not called for and decided that it was sufficient to substitute for the words ' the trustee shall be guided by ' occurring in the sub-section, the words ' the trustee shall have due regard to '.